IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVI APPELLATE SIDE JURISDICTION

WRIT PETITION NO 4502 OF 2005

Commander Dhananjayram S Deshmukh....Petitioner

vs

Mr. Appa Mandu Talekar . ..Respondent

Mr. A.V.Anturkar with Mrs Vinita V Bakre-Shashtry for petitioner

Mr. Bhawaskarfor Mr K Y Mandlik for respondent

CORAM: S.U.KAMDAR J.

Dated 5.l2.2005

P.C:

l. By the present petition the impugned order passed by the Divisional Commissioner dated 29.4.2005 in exercise of revisional power under the provisions of the Bombay Tenancy and Agricultural Lands Act, l948 is challenged. The only contention raised is that when the Collector has exercised power under section 29(3A) then revision does not lie before the Commissioner but only State Government has revisional jurisdiction. According to the petitioner the order under section 29(3A) only can be in challenged in revision by virtue of section 73(A)(2) and (3) of the said Act before the Government in revisional power. The provisions of section 29(3A) and 73(A) (2) and (3) read as under:

"29(3A): Where the landlord proceeds for termination of the tenancy under sub-section (l) of section 43-IB, then, notwithstanding anything contained in this Act, the application for possession of the land shall be made to the Collector, who shall, after holding an inquiry in the prescribed manner, pass such order thereon as he deems fit".

73A(2) The order of the Collector under sub-section (3A) of section 29 shall, subject to revision under sub-section (3), be final.

73A(3) The State Government may, suo motu or on an application from any person interested in the land, call for the record of any such inquiry for the purpose of satisfying itself as to the legality or propriety of the order passed by the Collector and pass such order thereon as it deems fit".

2. On the other hand the learned counsel for the respondents has drawn my attention to the provisions of section 83 of the said Act. The said provision under section 83 inter alia empower the

State Government to delegate powers in the Government to any officer not below the rank of Deputy Collector. It has been brought to my notice that in pursuance of the aforesaid provisions the State Government has issued notification being Notification dated l0th December l968 by which the State Government has delegated the power of revision to the Divisional Commissioner. In that view of the matter the order passed by the Divisional Commissioner in exercise of delegated power of the State Government in revision cannot be faulted with on the ground agitated by the petitioner herein. I thus hold that the Divisional Commissioner had jurisdiction to pass the impugned order.

. The petition therefore fails and is dismissed with no order as to costs.